TO ALL PARTIES AND THEIR COUNSEL OF RECORD:

22

23

24

25

26

27

28

11

PLEASE TAKE NOTICE that counsel for Plaintiff, ELFEGO RODRIGUEZ, inadvertently failed to attach the Table of Contents and Table of Authorities to his Opposition to Defendant's Motion for Summary Judgment, which is scheduled to be heard on May 12, 2010 at 9:00 a.m. in Department 37 of the above-referenced Court located at 111 N. Hill Street, Los Angeles, California.

NOTICE OF ERRATA RE OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY JUDGMENT RE ELFEGO RODRIGUEZ

1	Therefore, attached hereto as Exhibit A	is the Table of Contents and Table of Authorities for	
2	Plaintiff's "Memorandum of Points and Authorities in Opposition to Defendant's Motion for		
3	Summary Judgment, or in the Alternative, Summary Adjudication of Issues Against Plaintiff Elfego		
4			
5			
6		Respectfully submitted.	
7		LAW OFFICES OF RHEUBAN & GRESEN	
8		000	
9		By: Robert C. Hayden, Esq.	
10		Attorneys for Plaintiff, Elfego Rodriguez	
11			
12			
13			
14			
15			
16			
17			
18			
19			
20	The state of the s		
21			
22			
23			
24			
25			
26/			
27			
20			

## TABLE OF CONTENTS

2	
3	I. <u>SUMMARY OF FACTS</u>
4	1. Field Training Officer
5	2. Special Response Team2
6	3. Special Enforcement Detail
7	Chief Stehr Wanted to Retaliate Against Plaintiff
8	Plaintiff Complained About Racist Comments Displayed on White Board
9	After Chief Stehr Learned of the White Board Complaint, He Disbanded SED <u>5</u>
10	In Retaliation, the Department Seeks to Terminate and Humiliate Every Officer Who
11	Complained About Discrimination, Including Plaintiff
12	
13	II. ROLE OF COURT IN SUMMARY JUDGMENT PROCEEDINGS
14	
15	III. TRIABLE ISSUES OF MATERIAL FACT EXIST AS TO PLAINTIFF'S FIRST CAUSE
16	OF ACTION FOR VIOLATION OF THE FEHA BASED ON GOVERNMENT CODE
17	SECTION 12940 (a) (DISCRIMINATION)
18	A. Disparate Treatment - Prima Facie Case
19	B. <u>Disparate Treatment - Purported Non-Discriminatory Reason and Pretext</u> <u>10</u>
20	C. FEHA Violation Proven by Disparate Impact
21	
22	IV. TRIABLE ISSUES OF MATERIAL FACT EXIST AS TO PLAINTIFF'S SECOND
23	<u>CAUSE OF ACTION FOR HARASSMENT</u>
24	
25	V. TRIABLE ISSUES OF MATERIAL FACT EXIST AS TO PLAINTIFF'S THIRD CAUSE
26	OF ACTION FOR WRONGFUL RETALIATION
27	A. Prima Facie Case
28	B. <u>Purported Non-Retaliatory Reasons and Pretext</u>
	i

1	VI. TRIABLE ISSUES OF MATERIAL FACT EXIST AS TO PLAINTIFF'S FIFTH CAUSE
2	OF ACTION TO TAKE REASONABLE STEPS TO PREVENT HARASSMENT AND
3	<u>DISCRIMINATION</u>
4	
5	VII. TRIABLE ISSUES OF MATERIAL FACT EXIST WITH RESPECT TO THE SIXTH
6	CAUSE OF ACTION FOR VIOLATIONS OF POBRA
7	
8	VIII. <u>CONCLUSION</u>
9	
10	# 1 15 : 15 : 15 : 15 : 15 : 15 : 15 : 1
11	
12	
13	
14	
15	
16	
17	
18	
19	
20	
21	
22	A CONTRACTOR OF THE PROPERTY O
23	
24	
25	
26	
27	[12] [13] [14] [15] [15] [15] [15] [15] [15] [15] [15
28	
	MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO

## TABLE OF AUTHORITIES

2	Cases
3	Aguilar v. Avis Rent A Car Sys. (1999) 21 Cal. 4th 121, 145
4	Alch v. Superior Court (2008) 165 Cal. App. 4th 1412, 1428
5	Arauz v. Gerhardt (1977) 68 Cal. App. 3d 937
6	Beyda v. City of Los Angeles (1998) 65 Cal.App.4th 511
7	Black v. Sullivan (1975) 48 Cal. App. 3d 557
8	Cucuzza v. City of Santa Clara (2002) 104 Cal. App.4th 1031, 1038
9	Dee v. Vintage Petroleum, Inc. (2003) 106 Cal. App. 4th 30, 36-37
10	Fisher v. San Pedro Peninsula Hospital (1984) 214 Cal. App. 3d 590, 610 <u>14, 15, 17, 18</u>
11	Flait v. North American Watch Co., (1992) 3 Cal.App.4th 467, 477
12	Frank v. County of Los Angeles (2007) 149 Cal. App. 4th 805, 817
13	Gray v. Reeves (1977) 76 Cal. App. 3d 567
14	Guz v. Bechtel National, Inc. (2000) 24 Cal.4th 317, 354, fn. 20
15	Hale v. George A. Hormel & Co. (1975) 48 Cal. App. 3d 73
16	Hanson v. Lucky Stores, (1999) 74 Cal. App.4th 215, 224
17	Heard v. Lockheed Missiles & Space Co. (1996) 44 Cal. App. 4th 1735, 1755
18	Horn v. Cushman & Wakefield Western, Inc. (1999) 72 Cal. App.4th 798, 807 <u>10-12</u>
19	Horsford v. Board of Trustees of Calif. State Univ. (2005) 132 Cal. App. 4 <sup>th</sup> 359, 373
20	Keene v. Wiggins (1977) 69 Cal. App. 3d 308
21	Mariani-Colon v. Department of Homeland Security ex rel. Chertoff (1st Cir. 2007) 511 F.3d 216, 224
22	McGinest v. GTE Serv. Corp. (9 <sup>th</sup> Cir. 2004) 360 F.3d 1103, 1122 n.32
23	Miller v. Department of Corrections (2005) 36 Cal. 4th 446, 462
24	Mixon v. Fair Employment and Housing Com. (1987) 192 Cal. App.3d 1306, 1317
25	Mokler v. County of Orange (2007) 157 Cal.App.4th 121, 138
26	Nazir v. United Airlines, Inc. (2009) 178 Cal. App. 4th 243, 270
27	Northrop Grumman Corp. v. Workers' Comp. Appeals Bd.
28	(2002) 103 Cal. App. 4th 1021, 1036
	iii

1	Obrey v. Johnson, 400 F.3d at p. 695		
2	Passantino v. Johnson & Johnson Consumer Products, Inc. (9 <sup>th</sup> Cir. 2000) 212 F.3d 493, 507 . <u>19</u>		
3	Perez v. County of Santa Clara (2003) 111 Cal. App.4th 671, 677		
4	Sada v. Robert F. Kennedy Medical Center (1997) 56 Cal.App.4th 138, 148		
5	Schnidrig v. Columbia Machine (9 <sup>th</sup> Cir. 1996) 80 F.3d 1406, 1410		
6	State Dept. Of Health Services v. Sup. Ct. (McGinness) (2003) 31 Cal.4th 1026, 1042 <u>16</u>		
7	Weil & Brown, CAL. PRAC. GUIDE: CIV. PRO. BEFORE TRIAL (Rutter 2009), para.7:830.5 at 7-136		
8	Wysinger v. Automobile Club of So. Calif. (2007) 157 Cal.App.4th 413, 421		
9	Yanowitz v. L'Oreal USA, Inc., (2005) 36 Cal. 4th 1028, 1058		
10	Yanowitz v. L'Oreal USA (2005) 36 Cal.4th 1028, 1050-1052		
11			
12	<u>Statutes</u>		
13	Government Code Section 12940		
14	Government Code §3300, et seq		
15			
16			
17			
18			
19			
20			
21			
22			
23			
24			
25			
26			
27			
28			
	iv		

## PROOF OF SERVICE

## STATE OF CALIFORNIA, COUNTY OF LOS ANGELES

I am employed in the County of Los Angeles. I am over the age of eighteen and am not a party to the within action. My business address is 15910 Ventura Boulevard, Suite 1610, Encino, California 91436.

On April 29, 2010, I served a copy of the following document described as NOTICE OF ERRATA RE FILING OF TABLE OF CONTENTS AND TABLE OF AUTHORITIES TO PLAINTIFF'S MEMORANDUM OF POINTS AND AUTHORITIES IN OPPOSITION TO DEFENDANT'S MOTION FOR SUMMARY ADJUDICATION on the interested parties in this action as follows:

Lawrence A. Michaels Mitchell Silberberg & Knupp LLP 11377 West Olympic Boulevard Los Angeles, CA 90064-1683 Facsimile: (310) 312-3100 Email: LAM@msk.com Linda Miller Savitt, Esq.
Ballard Rosenberg Golper & Savitt, LLP
500 North Brand Boulevard, Twentieth Floor
Glendale, California 91203
Facsimile: (818) 506-4827
Email: lsavitt@brgslaw.com

Carol Ann Humiston Senior Assistant City Attorney Office of the City Attorney 275 East Olive Avenue, Burbank, California 91510-6459 Facsimile: (818) 238-5724 Email: chumiston@ci.burbank.ca.us

Kristin A. Pelletier, Esq. Burke, Williams & Sorensen, LLP 444 South Flower Street, Suite 2400 Los Angeles, California 90071 Facsimile: (213) 236-2700 Email: kpelletier@bwslaw.com

BY MAIL: By placing a true copy thereof enclosed in a sealed envelope(s) addressed as above, and placing each for collection and mailing on that date following ordinary business practices. I am "readily familiar" with this business's practice for collecting and processing correspondence for mailing. On the same day that correspondence is placed for collection and mailing, it is deposited in the ordinary course of business with the U.S. mail Postal Service in Los Angeles, California, in a sealed envelope with

postage fully prepaid.

BY E-MAIL OR ELECTRONIC TRANSMISSION: Based on a court order or an agreement of the parties to accept service by e-mail or electronic transmission, I caused the documents to be sent to the person(s) at the e-mail address listed above. My electronic notification address is ag@rglawyers.com. I did not receive, within a reasonable time after the transmission, any electronic message or other indication that the transmission was unsuccessful. A copy of the electronic transmission showing the time of service is attached.

**STATE:** I declare under penalty of perjury under the laws of the State of California that the above is true and correct.

EXECUTED on April 29, 2010, at Encino, California.

Annette Goldstein

2728

1

2

3

4

5

6

7

8

9

10

11

12

13

14

15

16

17

18

19

20

21

22

23

24

25

26

XX

3